

ORAL ARGUMENT NOT YET SCHEDULED**No. 23-1208****IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

**UNION ELECTRIC CO., d/b/a AMEREN MISSOURI,
Petitioner,****v.****UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al.
Respondents.**

**NONBINDING STATEMENT OF ISSUES OF
PETITIONER UNION ELECTRIC CO., d/b/a AMEREN MISSOURI**

Petitioner Union Electric Co., doing business as Ameren Missouri, respectfully submits this nonbinding, preliminary statement of issues to be raised in the above-captioned case involving review of the rule of Respondent United States Environmental Protection Agency (“EPA”) under the Clean Air Act (“CAA” or the “Act”) titled “Federal ‘Good Neighbor Plan’ for the 2015 Ozone National Ambient Air Quality Standards,” published at 88 Fed. Reg. 36,654 (June 5, 2023) (the “Federal Plan”):

1. Whether the Federal Plan is arbitrary, capricious, or otherwise unlawful because it resulted, or could result, in “over-control” of emissions.

2. Whether the dynamic budgeting and other “enhancement” provisions of the Federal Plan exceed EPA’s authority under the Good Neighbor provision of the Act, and are therefore unlawful.

3. Whether EPA acted arbitrarily or capriciously, abused its discretion, or otherwise acted contrary to law by relying on computer-modeled projections of future air quality conditions to identify downwind areas to be addressed in the Federal Plan, and by establishing emission reduction requirements applicable to sources in states that EPA’s analysis purported to link to such areas, without properly accounting for issues that relate to air quality modeling of downwind sites that are located near, or that are affected by, water bodies.

4. Whether EPA acted arbitrarily or capriciously, abused its discretion, or otherwise acted contrary to law by imposing the Federal Plan on the State of Missouri.

5. Whether EPA acted arbitrarily or capriciously, abused its discretion, or otherwise acted contrary to law by establishing an unreasonably and improperly accelerated compliance schedule for the Federal Plan.

Petitioner may brief issues in addition to those described above.

Dated: September 6, 2023

Respectfully submitted,

/s/ Elbert Lin

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CERTIFICATE OF SERVICE

I hereby certify that on September 6, 2023, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the CM/ECF system.

/s/ Elbert Lin